

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

PERRION ROBERTS,)
AIS #159116,)
)
Plaintiff,)
)
vs.) CIVIL ACTION No. 2:05-cv-578-F
)
DONAL CAMPBELL, *et al.*,)
)
Defendants.)

ANSWER OF DEFENDANTS DONAL CAMPBELL, GLADYS DEESE, FRANK

ALRBRIGHT, AND LENITA HAWTHORNE

Come now the defendants, through undersigned counsel, and in compliance with this Honorable Court's July 18, 2005, Order, hereby submit the following Answer:

1. The defendants deny that they have violated the plaintiff's constitutional rights.
2. The defendants assert that the Alabama Department of Corrections has a no smoking policy in place that is strictly enforced at Tutwiler Prison for Women.
3. The defendants deny all allegations not expressly admitted herein and demand strict proof of the same.

AFFIRMATIVE DEFENSES

1. The plaintiff's claims are barred because she has failed to allege any concrete physical injury.
2. The plaintiff's claims for injunctive relief are precluded by a previous class action settlement.
3. The plaintiff has failed to show any evidence that the defendants were deliberately indifferent to her welfare.
4. The defendants are entitled to discretionary function immunity.
5. The complaint fails to state a causal link between any action of the defendants and any actual injury.
6. The claim against Commissioner Campbell is barred because there is no respondeat superior liability in 1983 cases.
7. The complaint fails to state a claim for which relief can be granted.

Respectfully Submitted,

Troy King
Attorney General

s/Andrew Hamilton Smith
Andrew Hamilton Smith (SMI 263)
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have, this the 15th day of August, 2005, served a copy of the foregoing upon the plaintiff by placing same in the United States Mail, postage prepaid and properly addressed as follows:

Perrion Roberts
AIS# 159116
Tutwiler Prison for Women
8966 U.S. Highway 231 N.
Wetumpka, AL 36092

s/Andrew Hamilton Smith
Andrew Hamilton Smith (SMI 263)
Assistant Attorney General

ADDRESS OF COUNSEL

Office of the Attorney General
11 South Union Street
Montgomery, Alabama 36130
(334) 353-8811